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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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09/898,580

07/03/2001

Jeffrey M. Florczak

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07/28/2005

3M INNOVATIVE PROPERTIES COMPANY

PO BOX 33427

ST. PAUL, MN 55133-3427

EXAMINER

MACK, RICKY LEVERN

ART UNIT

PAPER NUMBER

2873

DATE MAILED: 07/28/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/898,580

Applicant(s)

FLORCZAK ET AL.

Examiner

Ricky L. Mack

Art Unit

2873

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 26 June 2003.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 2 and 4-12 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 2 and 4-12 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 03 July 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                                   | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)               | Paper No(s)/Mail Date. _____  |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date <u>031705 &amp; 051305</u> .   | 6) <input checked="" type="checkbox"/> Other: <u>Detailed Action</u> .      |

## DETAILED ACTION

### *Claim Rejections - 35 USC § 112*

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 9 and 12 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claim 9, the phrase "other documents of value" renders the claim indefinite because it unclear as to what is included and excluded by "other documents of value" and everything has value to some degree.

In claim 12, the phrase "applied to accessories" renders the claim indefinite because the term "accessories" is used in a wide range of fields and as claimed, it is not restricted to any field.

3. Claim 9 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite in that it fails to point out what is included or excluded by the claim language. This claim is an omnibus type claim.<sup>1</sup>

### *Claim Rejections - 35 USC § 102*

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 2, 4 and 5 are rejected under 35 U.S.C. 102(b) as being anticipated by Magee (5644431).

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<sup>1</sup> See item 2 regarding claim 9.

Magee discloses, as in claims 2, 4 and 5, a sheeting (see figs. 1 & 3) below, at least one layer of microlenses (711, 721), the layer having first and second sides; a layer of material (725) disposed adjacent the first side of the layer of microlenses; at least a partially complete image formed in the material associated with each of a plurality of microlenses, wherein the image contrast with the material; and a composite image (all of 725), provided by the individual images appears under reflected or transmitted light to float above the sheeting, float below the sheeting or float in the plane of the sheeting. The limitation with respect to how the images appears does not differ from the structure claimed by applicant and the structure taught by Magee, and thus said limitation is considered inherent to Magee's device.

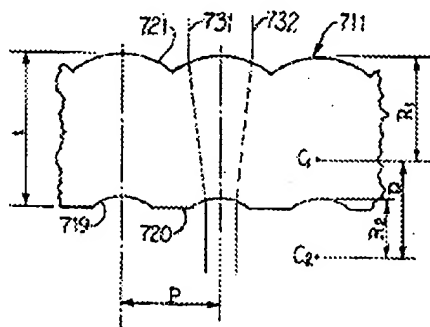


FIG. 1

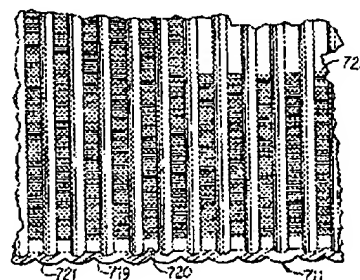


FIG. 3

***Claim Rejections - 35 USC § 103***

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 6-12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Magee (5644431) in view of Rosenthal (4034555).

Magee discloses the claimed invention except for the sheeting containing more than one composite image, as in claim 6. In the same field of endeavor, Rosenthal discloses more than one composite image (see fig. 2, refs. 22 and 24). It would have been obvious to one of ordinary skill in the art at the time the invention was made to provide the optical device of Magee with more than one composite image, as disclosed by Rosenthal for the purpose of providing two composite images (col. 5, line 5 through col. 6, line 34).

Magee discloses the claimed invention except for the one of the material selected from sodium aluminum fluoride, titanium oxide, bismuth oxychloride or lead carbonate, as in claim 7. It would have been obvious to one having ordinary skill in the art at the time the invention was made to an of the previously state materials, since it has been held to be within the general skill of a worker in the art to select a known material on the basis of its suitability for the intended use as a matter of obvious design choice. *In re Leshin*, 125 USPQ 416.

Magee discloses the claimed invention except for the particular use, such as, a license plate (claim 8), bank notes (claim 9), fashion clothing (claim 10), safety clothing (claim 11) or an accessory (claim 12). It would have been obvious to one of ordinary skill in the art at the time the invention was made to provide the a license plate, bank notes, fashion clothing, safety clothing or an accessories with an image transmission sheet as disclosed by Magee for the purpose of modifying an associated composite image. Furthermore, it has been held that a recitation with respect to the manner in which a claimed apparatus is intended to be employed does not differentiate the claimed apparatus from a prior art apparatus satisfying the claimed structural limitations. *Ex parte Masham*; 2 USPQ2d 1647 (1987).

*Response to Arguments*

8. Applicant's arguments with respect to claims have been considered but are moot in view of the new ground(s) of rejection.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ricky L. Mack whose telephone number is (571) 272-2333. The examiner can normally be reached on Monday-Friday (6:30 AM to 4:00 PM).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Georgia Y. Epps can be reached on (571) 272-2328. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Ricky L Mack  
Primary Examiner  
Art Unit 2873

RM  
July 23, 2005